

## REMARKS

Claims 1-15 are currently pending in this application. Claims 2, 3, 4, 7, 8, 9, 12, 13 and 14 have been amended.

The Examiner rejected claims 3, 4, 8, 9, 13 and 14 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicants regard as the invention. In his paragraph 10, the Examiner stated that claims 3, 4, 8, 9, 13 and 14 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, second paragraph. The Examiner stated it was unclear for what the abbreviations of CE, SE and CC stand. Claims 3, 4, 8, 9, 13 and 14 have been amended to include the words as stated in the specification to which these abbreviations are linked. Each of claims 3, 4, 8, 9, 13 and 14 have been amended to replace the “first parameter CE consisting of” with “first collect epoch (CE) parameter comprising,” “second parameter SE consisting of” with “second service epoch (SE) parameter comprising,” “third parameter consisting of the number of bits of determined by” with “third collect counter (CC) parameter comprising the number of bits as determined by,” and “fourth parameter consisting of” with “fourth service counter (SC) parameter comprising.” In the third parameter phrase, the replacement of the phrase “of determined” with “as determined” is to correct a grammatical error. The replacement of the term “consisting of” with “comprising” is in line with the specification (e.g., See embodiment discussed at p. 14, lines 22-32 of Applicants’ specification describing use of “epoch with multiple bits”) but which is also clear from the claim language itself. For example, the “at least” term in “consisting of at least one bit” makes clear that the open-ended language interpretation for “comprising” in U.S. patent law was intended as opposed to the closed-ended language often applied to the term “consisting of” in U.S. patent law. These amendments have placed claims 3, 4, 8, 9, 13 and 14 in allowable form.

The Examiner rejected claims 1, 2, 5, 6, 7, 10, 11, 12 and 15 under 35 U.S.C. 103(a) as being unpatentable over James et al. (US 6,108,739). Claims 2, 7 and 12 were amended to replace “consisting of” with “comprising” for the same reason as discussed above. The rejections of these claims are respectfully traversed.

In his paragraph 6, the Examiner addressed his rejection of claims 5 and 10. As noted, James does not specifically disclose “when a reject reply is received in response to said first request, sending a retry request by attaching thereto a parameter whose value is equal to the

value of a parameter of reject time information attached to said reject reply.” The Examiner stated that “[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to include reject time information because doing so would allow the user or system administrator to be aware of the time when the server is unable to provide service.”

It would not have been obvious to one of ordinary skill in the art to modify the subject matter of James to send or provided means for sending “a retry request by attaching thereto … a parameter of reject time information attached to said reject reply.” In James, there is no discussion of the target or recipient node including “reject time information attached to said reject reply.” This is consistent with James’s perspective of providing a solution to starvation and deadlocks based on information from the initiator node of the request. In James, “the method and system avoids starvation and deadlocks by encoding precedence information in subaction packets to determine which subactions should be processed and which should be rejected during a conflict between subactions.” (col. 12, lines 63-67.) In column 13, lines 1-9, examples of such precedence information are provided, and they include information that is not provided by the target node of the request in a response, but information available to the initiator node upon first sending the packet. The information includes a time stamp indicating the oldest packets to be processed. However, the age of the packets are determined by their “TimeofBirth,” which is the time the requester first sent the packet. (Col. 13, lines 21-25). Another example of precedence is where the requesting node is located in the system hierarchy. In another example, the precedence information includes the interfaces from which the packet originated. This precedence information determines which packets get a reservation for service. The cancellation of the reservation is also determined by a timeOfLife parameter determined for the packet upon initial transmission as well. (col. 13, line 61 to col. 14, line 3.) The information determining which packet to service or get a reservation (see col. 13, line 26 to col. 14 line 3) at a target node is based on precedence information (e.g. timeOfBirth) inserted at the originator node upon the first transmission of a packet with no feedback such as reject time information from the target node being used in the decision at the target node of which packets to process to prevent starvation. The criteria for selecting packets at a target node in James is fixed at creation of the packet. One of ordinary skill in the art would not be motivated by a system for avoiding starvation based on the precedence information of James determined upon creation of a packet at the initiator node to make a method that includes feedback information of reject time

information, information which can only be generated after a first transmission of the packet. Therefore, claims 5 and 10 are patentably distinguished over James.

In his paragraph 8, the Examiner rejected claims 1,2, 6 and 7 for the same reasons that claims 5 and 10 were rejected. The Examiner stated that James does not specifically disclose older rejection time or new reject time information but discloses a timestamp in data packet. The Examiner states that it "would have been obvious to one of ordinary skill in the art at the time the invention was made to include older rejection time because timestamp in the packet header periodically stores the time information, such as receiving or transmitting data packet time, thereby allowing to monitor network traffic.

Applicants' arguments presented above for claims 5 and 10 are responsive to the Examiner's rejection of these claims as well under 35 U.S.C. § 103(a). The criteria for selecting packets at a target node in James is fixed at creation of the packet, unlike in the features of the invention as claimed in claims 1, 2, 6 and 7. Each of these claims contain the specifically recited limitation of "when said target node is in a state capable of providing service, preferentially accepting a retry request carrying older reject time information." The criteria of determining which retry request to process is based on "reject time information," a parameter not under the control of the initiator node and not something that can be determined upon initial transmission of an initial request. Therefore, James clearly does not disclose, teach or suggest at least this limitation, and one of ordinary skill in the art would not have been motivated to include rejection time in a header, particularly in view of James' teachings of setting the criteria for request processing based on information entered by an initiator node upon initial transmission of the request. Therefore, claims 1, 2, 6 and 7 are patentably distinguished over James.

The Examiner rejected claims 11, 12 and 15 for the same reasons as set forth above in claims 1, 2, 5, 6, 7 and 10. Applicants' arguments with respect to claims 1, 2, 6, and 7, are applicable in patentably distinguishing claims 11 and 12 over James as these claims also contain at least the limitation "when said target node is in a state capable of providing service, preferentially accepting a retry request carrying older reject time information." Applicants' arguments with respect to claims 5 and 10, are applicable in patentably distinguishing claim 15 over James as this claim also contains "a facility for, when a reject reply is received in response to said first request, sending a retry request by attaching thereto a parameter whose value is equal to the value of a parameter of reject time information attached to said reject reply."

Applicants submit that this application is now in condition for allowance of all of the pending claims 1-15 as amended and, therefore, a prompt Notice of Allowance is respectfully requested.

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Dated: 3/8/04

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